UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/720,586	11/24/2003	Donna K. Hodges	BS030348	5016

7590 01/31/2008	**EXAMINER**
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ART UNIT	PAPER NUMBER
2143	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

PTOL-90A (Rev. 04/07)

	Application No.	Applicant(s)
Office Action Summary	10/720,586	HODGES ET AL.
	Examiner	**Art Unit**	
	Anish Sikri	2143	

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>02 November 2007</u>.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-20</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-20</u> is/are rejected.

7)☒ Claim(s) <u>12</u> is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on <u>24 November 2003</u> is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date <u>11/5/2007</u>.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____ .

DETAILED ACTION

Information Disclosure Statement

The information disclosure statement submitted on 11/05/2007 been considered

by the Examiner and made of record in the application file.

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set

forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this

application is eligible for continued examination under 37 CFR 1.114, and the fee set

forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action

has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on

11/02/2007 has been entered.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine,

manufacture, or composition of matter, or any new and useful improvement

thereof, may obtain a patent therefor, subject to the conditions and requirements

of this title.

Claims **12, 18-20** are rejected under 35 U.S.C. 101 because the claimed

invention is directed to non-statutory subject matter. Claim 18-20 are rejected by virtue

of dependency on claim 12.

Claim 12, states that "it is a computer program product storing processor-

executable instructions for: retrieving audio-video data comprising packets of data

packetized according to a packet protocol; segmenting the packets according to a set of

subscriber-specified rules stored in memory, the set of subscriber-specified rules

specified by a subscriber to a subscription service, the set of subscriber-specified rules

specifying how the audio-video data is formatted to suit a requirement of a client

communications device"

But in the specifications [0015], the invention describes the system, which stores

and executes instructions for the communication device, as the analysis module. Which

in turn comprises of methods, computer systems and computer programs and computer

program products, which provide communication services to subscribers. The

specifications do provide support to claim 12, stating that the device (which can

interpreted as Analysis module) can indeed be a computer program by itself.

Claim Objections

Claim 12 is objected because of the following informality, as there is insufficient

antecedent basis for this limitation in the claim. It is suggested to use the term

computer readable medium in the claim, as the specifications imply that the analysis

module may be on a computer readable medium. Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under

section 122(b), by another filed in the United States before the invention by the

applicant for patent or (2) a patent granted on an application for patent by

another filed in the United States before the invention by the applicant for patent,

except that an international application filed under the treaty defined in section

351(a) shall have the effects for purposes of this subsection of an application

filed in the United States only if the international application designated the

United States and was published under Article 21(2) of such treaty in the English

language.

Consider Claim 1-3, 6-14, 17 and 18 are rejected under 35 U.S.C 102(e), as

being unpatentable over Logan et al (US Pub 2003/0093790).

Consider Claim 1, Logan et al discloses the method of providing communications

services, comprising: retrieving audio-video data comprising packets of data packetized

according to a packet protocol (Logan et al, [0015]-[0016], [0054]); segmenting the

packets according to a set of subscriber-specified rules stored in memory (Logan et al,

[0117]-[0118], [0258]), the set of subscriber-specified rules specified by a subscriber to

a subscription service (Logan et al, [0240], [0422]-[0423], [0461]), the set of subscriber-

specified rules specifying how the audio-video data is formatted to suit a requirement of

a client communications device (Logan et al, [0299]-[0310], [0426]); when a processing

service is required, then grouping together individual packets as a segment (Logan et

al, [0065]), each of the individual packets in the segment requiring the processing

service dispersing the segment via a network to receive the for processing service

(Logan et al, [0065], [0096]); receiving a result of the processing service [0091]-[0094];

assembling formatted audio-visual data comprising the result of the processing service

and an unprocessed segment; and communicating the formatted audio-visual data via

the network (Logan et al, [0065], [0096]-[0101]).

Additional support for client requirements can be found at [0327]-[0331], [0426],

[0454]. Logan et al shows on how the subscriber can create meta-data (rules or

preferences or playlists etc), to segment data according to the rules stored in memory

(user-created meta-data), which in turn allows the data to be suited for the client

device's requirements. And user meta-data (rules) can be processed at the system or

on a remote location.

Consider Claim 2, Logan et al discloses the method according to claim 1,

wherein grouping together the individual packets comprises grouping together the

individual packets (Logan et al, [0017]-[0018]) that require a color correction service and

wherein receiving the result comprises receiving the result of the, color correction

service (Logan et al, [0069]-[0070]).

Consider Claim 3, Logan et al discloses the method according to claim 1, further

comprising communicating the formatted audio-visual data to the client communications

device (Logan et al, [0299]-[0310], [0426]).

Consider Claim 6, Logan et al discloses the method according to claim 1,

wherein dispersing the segment comprises specifying that at least one of the segments

be processed during off-peak hours (Logan et al, [0293]-[0295]).

Consider Claim 7, Logan et al discloses the method according to claim 1, further

comprising retrieving the set of subscriber-specified rules from the memory of the client

communications device (Logan et al, [0117]-[0118], [0258]).

Consider Claim 8, Logan et al discloses the method according to claim 1, further

comprising inferring an action based upon the set of subscriber-specified rules (Logan

et al, (Logan et al, [0240], [0422]-[0423], [0461]).

Consider Claim 9, Logan et al discloses the method according to claim 1, further

comprising inferring a new rule based upon the set of subscriber-specified rules (Logan

et al, [0240], [0422]-[0423]).

Consider Claim 10, Logan et al discloses the method according to claim 1, further comprising requesting a new rule for a new situation (Logan et al, [0139], [0222]-[0226]).

Claim 11, has similar limitations as to claim 1; therefore, it is rejected under the same rational as to claim 1.

Claim 12, 13, 14, and 17, have similar limitations as to claim 1, 2, 3, 7 respectively; therefore, it is rejected under the same rational as to claims 1, 2, 3, 7.

Claim 18, have similar limitations as to claim 2 respectively; therefore, it is rejected under the same rational as to claim 2.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed

or described as set forth in section 102 of this title, if the differences between the

subject matter sought to be patented and the prior art are such that the subject

matter as a whole would have been obvious at the time the invention was made

to a person having ordinary skill in the art to which said subject matter pertains.

Patentability shall not be negatived by the manner in which the invention was

made.

The factual inquiries set forth in *Graham* v. *John Deere Co.*, 383 U.S. 1, 148

USPQ 459 (1966), that are applied for establishing a background for determining

obviousness under 35 U.S.C. 103(a) are summarized as follows:

1.   Determining the scope and contents of the prior art.

2.   Ascertaining the differences between the prior art and the claims at issue.

3.   Resolving the level of ordinary skill in the pertinent art.

4.   Considering objective evidence present in the application indicating

       obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of

the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of

the various claims was commonly owned at the time any inventions covered therein

were made absent any evidence to the contrary. Applicant is advised of the obligation

under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was

not commonly owned at the time a later invention was made in order for the examiner to

consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g)

prior art under 35 U.S.C. 103(a).

Consider Claims 4, 5, 15, 16, 19, and 20 are rejected under 35 U.S.C 103(a) as

being unpatentable over Logan et al (US Pub 2003/0093790), in view of Wee et al (US

Pat 7,184,548).

Consider Claim 4, Logan et al discloses the method according to claim 1,

wherein grouping together the individual packets comprises grouping together the

individual packets (Logan et al, [0017]-[0018], [0065], [0078]-[0080]).

But Logan et al fails to disclose a scaling service, and wherein receiving the

result comprises receiving the result of the scaling service.

Nonetheless, Wee et al, discloses a scaling service, and wherein receiving the

result comprises receiving the result of the scaling service (Wee et al, Col 7 Lines 64-

67, Col 8 Lines 41-45, Col 12 Lines 20-30).

Therefore it would have been obvious to a person of ordinary skill in the art at the

time of the invention was made to incorporate the scaling features, taught by Wee et al,

in the system of Logan et al, for the purpose of properly relaying the data to the client

device.

Consider Claim 5, Logan et al fails to discloses the method according to claim 1,

wherein receiving the result comprises receiving an encrypted segment to suit a privacy

requirement.

Nonetheless, Wee et al discloses the result comprises receiving an encrypted

segment to suit a privacy requirement (Wee et al, Col 9 Lines 18-25).

Therefore it would have been obvious to a person of ordinary skill in the art at the

time of the invention was made to incorporate the encryption on segments, taught by

Wee et al, in the system of Logan et al, for the purpose of enabling secure

communications.

Claims 15, 16 have similar limitations as to claim 4, 5 respectively; therefore, it is

rejected under the same rational as to claims 4, and 5.

Claims 19, 20 have similar limitations as to claim 4, 5 respectively; therefore, it is

rejected under the same rational as to claims 4, and 5.

Response to Arguments

Applicant's arguments with respect to claim 1-20 have been considered but are

moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anish Sikri whose telephone number is 571-270-1783. The examiner can normally be reached on 8am - 5pm Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Flynn can be reached on 571-272-1915. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Anish Sikri

a.s.

January 22, 2008